

EXHIBIT**1****COPY**

LANCASTER COUNTY

2015 NOV 30 PM 12 58

IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA

CLERK OF THE DISTRICT COURT

JAMES ARMSTRONG,

Plaintiff,

vs.

METROPOLITAN LIFE INSURANCE
COMPANY AND STATE OF NEBRASKA,

Defendants.

COMPLAINTCase No. CC 15-4354

COMES NOW the Plaintiff, James Armstrong, by and through his undersigned counsel, and for his cause of action states and alleges as follows:

1. Plaintiff, James Armstrong, is a resident of Lincoln, Lancaster County, Nebraska.

2. Defendant, Metropolitan Life Insurance Company is the claims and plan administrator for the State of Nebraska Long-Term Disability ("LTD") Plan. Metropolitan Life Insurance Company's Disability Claims office is located at P. O. Box 14590, Lexington, Kentucky 40511-4590.

3. Defendant State of Nebraska was Plaintiff's employer and is the plan sponsor. State of Nebraska's office is located at 1526 K Street, Ste. 140, Lincoln, Nebraska 68509-4847.

FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS

4. On January 10, 1980, the Plaintiff was employed by the State of Nebraska as a Social Service Worker. He ceased working in this position on March 6, 2012.

5. The Plaintiff's job involved face-to-face meetings with applicants applying for assistance through government programs. The Plaintiff also worked in the Call Center.

6. The Plaintiff's job regularly exposed him to stress, anxiety, depression, ultimately resulting in a heart attack.

7. On May 4, 2012, the Plaintiff was a participant in the Metropolitan Life Insurance Company Long Term Disability Plan.



001581591D02

8. The Plaintiff was initially approved for long-term disability benefits due to heart related issues, as well as shoulder and anxiety issues until his benefits were terminated on August 8, 2014.

9. The Plaintiff submitted an administrative appeal to Metropolitan Life Insurance Company for long-term disability benefits on or about September 9, 2014 which was denied.

10. In denying the Plaintiff's benefits, Defendants:

- a. failed to properly interpret and apply the terms of the LTD plan;
- b. failed to take into account all comments, documents, records, reports and other information submitted by Plaintiff;
- c. failed to consult with health care professionals with appropriate training and experience in applicable fields of medicine relative to the medical judgments made in connection with Plaintiff's claim;
- d. failed to provide adequate notice setting forth the specific reasons for denial of benefits written in a manner calculated to be understood by Plaintiff;
- e. failed to afford the Plaintiff a full and fair review;
- f. failed to conduct a "meaningful dialogue" with the Plaintiff or his physicians concerning his claim;
- g. gave differing rationales for the denial of benefits;
- h. required "objective data" of symptoms while overlooking substantial objective and subjective medical evidence produced by the Plaintiff and his physicians;

- i. made decisions without any explanation, or in ways that conflict with the plain language of the plan, or that were based on erroneous findings of fact;
- j. overlooked important information or erred in appreciating the significance of evidence;
- k. failed to investigate the Plaintiff's claim adequately or ask him for necessary evidence;
- l. based the denial on an ambiguous or equivocal medical report(s);
- m. refused to give proper weight to reliable evidence submitted by Plaintiff;
- n. rendered decisions based upon a selective review of the record or an incomplete record;
- o. the Plaintiff has exhausted his administrative remedies and timely brings this action.

FIRST CLAIM

The Plaintiff incorporates herein as if fully set forth at this point, the allegations contained in paragraphs 1 through 10.

11. On May 4, 2012, The Plaintiff contacted Metropolitan Life Insurance Company for the purpose of applying for long-term disability benefits under the LTD plan.

12. The Plaintiff was approved on September 26, 2012, for long-term disability benefits to commence on September 7, 2012 and received benefits until August 8, 2014, at which time the Plaintiff's long-term disability benefits were terminated by Metropolitan Life Insurance Company.

13. The Plaintiff appealed the decision to deny his long-term disability benefits on September 9, 2014.

14. The Plaintiff qualifies for long-term disability benefits under the terms of his LTD Plan.

15. The Plaintiff's gross disability benefit is determined by multiplying 66.67% of his basic monthly earnings of \$3,559.23, which is \$2,372.94 through September 6, 2012, and then the gross disability benefit amount was increased to \$2,491.46 beginning September 7, 2013.

16. Any "Other Income Benefits" are then subtracted from the disability benefit amount to be paid.

17. To determine Plaintiff's long-term disability benefit owed, any "Other Income Benefits" must be subtracted from the gross disability benefit amount (\$2,491.46). Plaintiff received "Other Income Benefits" in the form of social security disability benefits each month totaling \$1,529.00 from September, 2012 through November, 2012, and the amount of \$1,555.00 beginning December, 2012. Therefore, Plaintiff is owed \$936.46 (\$2,491.46 minus \$1,555.00) per month for long-term disability benefits beginning September 7, 2013.

18. Pursuant to the LTD Plan, Defendants are liable to Plaintiff in the amount of \$936.46 per month for the period commencing August 9, 2014 to the present, and continuing as long as he remains disabled pursuant to the LTD plan, plus prejudgment interest, due to the wrongful denial of his long-term disability benefits. Said sum amounts to \$14,046.90 as of November 4, 2015 (452 days from August 9, 2014 through November 4, 2015 at \$31.07 per diem).

19. Pursuant to Neb. Rev. Stat. § 44-359, Defendants are liable to Plaintiff for the costs of this action and reasonable attorney fees.

WHEREFORE, Plaintiff prays for judgment in his favor and against the Defendants as follows:

A. For \$14,046.90 in long-term disability benefits through November 4, 2015 and for \$31.07 per diem thereafter during the pendency of this case.

IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA

JAMES ARMSTRONG,)
)
Plaintiff,)
vs.)
)
METROPOLITAN LIFE INSURANCE)
COMPANY AND STATE OF NEBRASKA,)
)
Defendants.)

PRAECIPE

Case No. _____

TO THE CLERK OF SAID COURT:

Please issue summons in the above entitled cause, and deliver same unto the attorney for Plaintiff, for service upon the following via certified mail:

Metropolitan Life Insurance Company, c/o CT Corporation System, 5601 South 59th Street, Lincoln, NE 68516.

And

State of Nebraska, c/o Office of the Attorney General, 2115 State Capitol, Lincoln, NE 68509

JAMES ARMSTRONG, Plaintiff

By

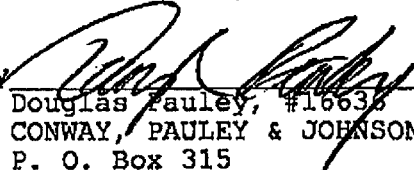

Douglas Pauley, #16636
CONWAY, PAULEY & JOHNSON, P. C.
P. O. Box 315
Hastings, NE 68902-0315
(402) 462-5187
dpauley@hastingslaw.com
Attorneys for Plaintiff

Image ID:
D00470244D02

SUMMONS

Doc. No. 470244

IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA
575 S. 10th Street - 3rd Floor
SEPARATE JUVENILE COURT-4th Floor
Lincoln NE 68508

James Armstrong v. Metropolitan Life Insurance Company

Case ID: CI 15 4354

TO: Metropolitan Life Insurance Company

You have been sued by the following plaintiff(s):

James Armstrong

Plaintiff's Attorney: Douglas G Pauley
Address: PO Box 315
Hastings, NE 68902-0315

Telephone: (402) 462-5187

A copy of the complaint/petition is attached. To defend this lawsuit, an appropriate response must be served on the parties and filed with the office of the clerk of the court within 30 days of service of the complaint/petition. If you fail to respond, the court may enter judgment for the relief demanded in the complaint/petition.

Date: DECEMBER 1, 2015 BY THE COURT:

Tracy L. Clark
Clerk



PLAINTIFF'S DIRECTIONS FOR SERVICE OF SUMMONS AND A COPY OF THE COMPLAINT/PETITION ON:

Metropolitan Life Insurance Company
c/o CT Corporation System
5601 S 59th St.
Lincoln, NE 68516

Method of service: Certified Mail

You are directed to make such service within ten days after the date of issue, and file with the court clerk proof of service within ten days after the signed receipt is received or is available electronically, whichever occurs first.

Image ID:
D00470245D02

SUMMONS

Doc. No. 470245

IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA
575 S. 10th Street - 3rd Floor
SEPARATE JUVENILE COURT-4th Floor
Lincoln NE 68508

James Armstrong v. Metropolitan Life Insurance Company

Case ID: CI 15 4354

TO: State of Nebraska

FILED BY
Clerk of the Lancaster District Court
12/01/2015

You have been sued by the following plaintiff(s):

James Armstrong

Plaintiff's Attorney: Douglas G Pauley
Address: PO Box 315
Hastings, NE 68902-0315

Telephone: (402) 462-5187

A copy of the complaint/petition is attached. To defend this lawsuit, an appropriate response must be served on the parties and filed with the office of the clerk of the court within 30 days of service of the complaint/petition. If you fail to respond, the court may enter judgment for the relief demanded in the complaint/petition.

Date: DECEMBER 1, 2015

BY THE COURT:

Tracy J. Clark
Clerk



PLAINTIFF'S DIRECTIONS FOR SERVICE OF SUMMONS AND A COPY OF THE COMPLAINT/PETITION ON:

State of Nebraska
c/o Attorney General
2115 State Capitol
Lincoln, NE 68509

Method of service: Certified Mail

You are directed to make such service within ten days after the date of issue, and file with the court clerk proof of service within ten days after the signed receipt is received or is available electronically, whichever occurs first.

Filed in Lancaster District Court

*** EFILED ***

Case Number: D02CI150004354

Transaction ID: 0003187920

Filing Date: 12/23/2015 04:18:18 PM CST

SERVICE RETURN

LANCASTER DISTRICT COURT
 575 S. 10th Street - 3rd Floor
 SEPARATE JUVENILE COURT-4th Floor
 Lincoln NE 68508

To:

Case ID: CI 15 4354 Armstrong v. Metropolitan Life Insurance

Received this Summons on _____, I hereby certify that on
 _____ at _____ o'clock __M. I served copies of the Summons
 upon the party:

by _____

as required by Nebraska state law.

Service and return \$ _____

Copy _____

Mileage _____ miles

TOTAL \$ _____

Date: _____ BY: _____
 (Sheriff or authorized person)

**CERTIFIED MAIL
 PROOF OF SERVICE**

Copies of the Summons were mailed by certified mail,
 TO THE PARTY: Metropolitan Life Ins. Co.

At the following address: c/o CT Corporation System, 5601 S. 59th Street,
Lincoln, NE 68516

on the 2nd day of December, 2015, as required by Nebraska state law.

Postage \$ 6.95 Attorney for: Plaintiff

The return receipt for mailing to the party was signed on December 4, 2015.


To: Metropolitan Life Insurance Company
 c/o CT Corporation System
 5601 S 59th St.
 Lincoln, NE 68516

From: Douglas G Pauley
 PO Box 315
 Hastings, NE 68902-0315

ATTACH RETURN RECEIPT & RETURN TO COURT

7015 0640 0006 3175 8311

U.S. Postal Service™ CERTIFIED MAIL® RECEIPT Domestic Mail Only	
For delivery information, visit our website at www.usps.com ®.	
OFFICIAL USE	
Certified Mail Fee \$ <u>3.45</u>	12-2-15 ✓LR
Extra Services & Fees (check box, add fee as appropriate)	
<input checked="" type="checkbox"/> Return Receipt (hardcopy) \$ <u>2.80</u>	
<input type="checkbox"/> Return Receipt (electronic) \$	
<input type="checkbox"/> Certified Mail Restricted Delivery \$	
<input type="checkbox"/> Adult Signature Required \$	
<input type="checkbox"/> Adult Signature Restricted Delivery \$	
Postage \$ <u>.705</u>	
Total Postage and Fees \$ <u>6.955</u>	214093 000
Sent To <u>Metropolitan Life Ins. Co.</u>	
Street and Apt. No., or PO Box No. <u>5601 S. 59th Street</u>	
City, State, ZIP+4® <u>Lincoln NE 68516</u>	
PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions	

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature X <u>Josh Holbrook</u> <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <u>JOHN HOLBROOK</u></p> <p>C. Date of Delivery <u>12-04</u></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>
<p>1. Article Addressed to:</p> <p><u>Metropolitan Life Ins. Co.</u> <u>10 CT Corporation System</u> <u>5601 S. 59th Street</u> <u>Lincoln, NE 68516</u></p>  <p>9590 9403 0463 5173 2703 20</p>	<p>3. Service Type</p> <p><input type="checkbox"/> Adult Signature <input type="checkbox"/> Priority Mail Express®</p> <p><input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Registered Mail™</p> <p><input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Registered Mail Restricted Delivery</p> <p><input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Signature Confirmation™</p> <p><input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Signature Confirmation Restricted Delivery</p> <p><input type="checkbox"/> Insured Mail <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</p>
<p>2. Article Number (Transfer from service label)</p> <p><u>7015 0640 0006 3175 8311</u></p>	
PS Form 3811, April 2015 PSN 7530-02-000-9053	Domestic Return Receipt

Certificate of Service

I hereby certify that on Thursday, December 24, 2015 I provided a true and correct copy of the Return-Summons/Alias Summons to the following:

Metropolitan Life Insurance Company service method: No Service

State of Nebraska service method: No Service

Signature: /s/ Pauley,Douglas, (Bar Number: 16636)

Filed in Lancaster District Court

*** EFILED ***

Case Number: D02CI150004354

Transaction ID: 0003187920

Filing Date: 12/23/2015 04:48:18 PM CST

SERVICE RETURN

LANCASTER DISTRICT COURT
 575 S. 10th Street - 3rd Floor
 SEPARATE JUVENILE COURT-4th Floor
 Lincoln NE 68508

To:

Case ID: CI 15 4354 Armstrong v. Metropolitan Life Insurance

Received this Summons on _____, _____. I hereby certify that on
 _____, _____ at _____ o'clock __M. I served copies of the Summons
 upon the party:

by _____

as required by Nebraska state law.

Service and return \$ _____

Copy _____

Mileage _____ miles _____

TOTAL \$ _____

Date: _____ BY: _____
 (Sheriff or authorized person)

**CERTIFIED MAIL
 PROOF OF SERVICE**

Copies of the Summons were mailed by certified mail,
 TO THE PARTY: State of Nebraska

At the following address: Attorney General, 2115 State Capitol, Lincoln, NE
68509

on the 2nd day of December 2015, as required by Nebraska state law.

Postage \$ 6.95 Attorney for: Plaintiff

The return receipt for mailing to the party was signed on December 7, 2015.

To: State of Nebraska
 c/o Attorney General
 2115 State Capitol
 Lincoln, NE 68509

From: Douglas G Pauley
 PO Box 315
 Hastings, NE 68902-0315

ATTACH RETURN RECEIPT & RETURN TO COURT

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®

OFFICIAL USE

Certified Mail Fee
\$ 3.45

Extra Services & Fees (check box, add fee as appropriate)

☒ Return Receipt (hardcopy) \$ 2.80

☐ Return Receipt (electronic) \$ _____

☐ Certified Mail Restricted Delivery \$ _____

☐ Adult Signature Required \$ _____

☐ Adult Signature Restricted Delivery \$ _____

Postage
\$ 7.05

Total Postage and Fees
\$ 6.955

Sent To State of Nebraska

Street and Apt. No., or PO Box No. 2115 State Capitol

City, State, ZIP+4® Lincoln, NE 68509


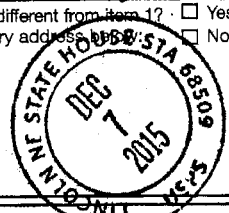
PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

12-2-15 ✓ UK

Postmark
Here

214093.000

7015 0640 0006 3175 8328

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY		
<ul style="list-style-type: none"> ■ Complete Items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. <p>1. Article Addressed to:</p> <p style="margin-left: 20px;">State of Nebraska c/o Attorney General 2115 State Capitol Lincoln, NE 68509</p> <div style="text-align: center;">  9590 9401 0025 5071 9091 37 </div> <p>2. Article Number (Transfer from service label)</p> <p style="margin-left: 20px;">7015 0640 0006 3175 8328</p>	<p>A. Signature</p> <p style="text-align: center;"><i>[Signature]</i></p> <p>B. Received by (Print name) <i>[Signature]</i> Date of Delivery</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address: _____ <input type="checkbox"/> No</p> <div style="text-align: center;">  </div> <p>3. Service Type</p> <table style="width: 100%;"> <tr> <td style="vertical-align: top;"> <input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Insured Mail <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500) </td> <td style="vertical-align: top;"> <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery </td> </tr> </table>	<input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Insured Mail <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)	<input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery
<input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Insured Mail <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)	<input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery		

PS Form 3811, April 2015 PSN 7530-02-000-9057 Domestic Return Receipt

Certificate of Service

I hereby certify that on Thursday, December 24, 2015 I provided a true and correct copy of the Return-Summons/Alias Summons to the following:

Metropolitan Life Insurance Company service method: No Service

State of Nebraska service method: No Service

Signature: /s/ Pauley,Douglas, (Bar Number: 16636)

IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA

JAMES ARMSTRONG ,

Plaintiff,

v.

METROPOLITAN LIFE INSURANCE
COMPANY AND STATE OF
NEBRASKA,

Defendants.

CASE NO. CI15-4354

MOTION TO DISMISS

COMES NOW Defendant, State of Nebraska, by and through counsel, pursuant to NEB. CT. R. PLDG. § 6-1112 (b)(6) and hereby moves this Court for an order dismissing this action as Plaintiff's Complaint fails to state a claim upon which relief can be granted.

WHEREFORE, Defendant hereby prays the Court for an order dismissing this matter with prejudice at Plaintiff's cost.

DATED this 30th day of December, 2015.

STATE OF NEBRASKA, Defendant,

BY: DOUGLAS J. PETERSON, #18146
Attorney General

BY: s/ Danielle Jones
Danielle Jones, #25505
Assistant Attorney General

OFFICE OF THE ATTORNEY GENERAL
2115 State Capitol
Lincoln, Nebraska 68509
(402) 471-2682
danielle.jones@nebraska.gov

Attorneys for Defendant.

NOTICE OF HEARING

TO: JAMES ARMSTRONG, DOUGLAS PAULEY, his attorney, and
METROPOLITAN LIFE INSURANCE COMPANY

You are hereby notified that the hearing on the foregoing Motion to Dismiss will be held before the Honorable Judge Steven D. Burns, on February 26, 2016 at 3:30 p.m. at Lancaster County District Court, 575 S. 10th Street, 3rd Floor, Courtroom #34, Lincoln, Nebraska, or as soon thereafter as the matter may be heard.

s/ Danielle Jones
Danielle Jones
Assistant Attorney General

Certificate of Service

I hereby certify that on Wednesday, December 30, 2015 I provided a true and correct copy of the Motion-Dismissal to the following:

Armstrong, James, represented by Pauley, Douglas, (Bar Number: 16636) service method: Electronic Service to dpauley@hastingslaw.com

State of Nebraska service method: No Service

Metropolitan Life Insurance Company service method: First Class Mail

Signature: /s/ Danielle Jones (Bar Number: 25505)

IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA

JAMES ARMSTRONG,

Plaintiff,

v.

METROPOLITAN LIFE INSURANCE
COMPANY AND STATE OF
NEBRASKA ,

Defendants.

CASE NO. CI15-4354

MOTION TO WITHDRAW AS
COUNSEL OF RECORD

COMES NOW, Danielle Jones, Assistant Attorney General, and moves this Court to allow me to withdraw as counsel of record for the State of Nebraska as I am retiring from my position as an Assistant Attorney General effective December 31, 2015.

DATED this 31st day of December, 2015.

STATE OF NEBRASKA, Defendant,

BY: DOUGLAS J. PETERSON, #18146
Attorney General

BY: s/ Danielle Jones
Danielle Jones, #25505
Assistant Attorney General

OFFICE OF THE ATTORNEY GENERAL
2115 State Capitol
Lincoln, Nebraska 68509
(402) 471-2682
danielle.jones@nebraska.gov

Attorneys for Defendant.

Certificate of Service

I hereby certify that on Thursday, December 31, 2015 I provided a true and correct copy of the Motion-Withdraw as Counsel to the following:

Armstrong, James, represented by Pauley, Douglas, (Bar Number: 16636) service method: Electronic Service to dpauley@hastingslaw.com

Metropolitan Life Insurance Company service method: First Class Mail

Signature: /s/ Danielle Jones (Bar Number: 25505)

IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA

JAMES ARMSTRONG,

Plaintiff,

vs.

METROPOLITIAN LIFE INSURANCE
COMPANY AND STATE OF
NEBRASKA,

Defendants.

Case No. CI 15-4354

ENTRY OF APPEARANCE

Ryan C. Gilbride, #22415, Assistant Attorney General, enters his appearance on behalf of the State of Nebraska in the above-captioned case.

Dated this 6th day of January, 2016.

THE STATE OF NEBRASKA, Defendant.

By: DOUGLAS J. PETERSON, #18146
Attorney General

By: s/ Ryan C. Gilbride
Ryan C. Gilbride, #22415
Assistant Attorney General
OFFICE OF THE ATTORNEY GENERAL
2115 State Capitol
Lincoln, Nebraska 68509
(402) 471-1830
ryan.gilbride@nebraska.gov

Attorneys for Defendant.

CERTIFICATE OF SERVICE

I hereby certify that on January 6, 2016, I electronically filed the foregoing document with the Clerk of the District Court for Lancaster County, Nebraska, using the Nebraska Supreme Court EFILING system, causing notice of such filing to be served upon Plaintiff's counsel of record.

By: s/ Ryan C. Gilbride
Ryan C. Gilbride
Assistant Attorney General

Certificate of Service

I hereby certify that on Wednesday, January 06, 2016 I provided a true and correct copy of the Entry of Appearance to the following:

State of Nebraska represented by Danielle Jones (Bar Number: 25505) service method:
Electronic Service to Danielle.Jones@nebraska.gov

Metropolitan Life Insurance Company service method: No Service

Armstrong,James, represented by Pauley,Douglas, (Bar Number: 16636) service method:
Electronic Service to dpauley@hastingslaw.com

Signature: /s/ Ryan C. Gilbride (Bar Number: 22415)

IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA

JAMES ARMSTRONG,

Case No. CI 15-4354

Plaintiff,

v.

ANSWER

METROPOLITAN LIFE INSURANCE
COMPANY and STATE OF NEBRASKA

Defendants.

Defendant, Metropolitan Life Insurance Company ("MetLife"), for its answer to the Plaintiff's Complaint, states and alleges as follows:

1. MetLife admits the allegations of paragraphs 1, 2, 3, 4 and 5 of the Complaint, except that MetLife denies that its claims office is located in Kentucky.
2. MetLife denies the allegations of paragraph 6 of the Complaint.
3. MetLife admits that Plaintiff was a participant in a long-term disability plan sponsored by the State of Nebraska and insured by MetLife (the "Policy"). MetLife denies the remaining allegations of paragraph 7 of the Complaint.
4. MetLife admits that Plaintiff's claim for benefits under the Policy was initially approved, that benefits were paid to Plaintiff, and that benefits were terminated as of August 8, 2014. MetLife denies the remaining allegations of paragraph 8 of the Complaint.
5. MetLife admits that Plaintiff appealed the denial of his claim, which appeal was denied by MetLife. MetLife denies the remaining allegations of paragraph 9 of the Complaint.

6. MetLife denies the allegations of paragraph 10 of the Complaint.
7. MetLife admits that Plaintiff submitted a claim for disability benefits under the Policy. MetLife denies the remaining allegations of paragraph 11 of the Complaint.
8. MetLife admits the allegations of paragraphs 12 and 13 of the Complaint.
9. MetLife denies the allegations of paragraphs 14 and 15 of the Complaint.
10. MetLife admits that "Other Income Benefits" as defined in the Policy are subtracted from any disability benefit otherwise due under the Policy. MetLife denies the remaining allegations of paragraph 16 of the Complaint.
11. MetLife denies the allegations of paragraph 17, 18 and 19 of the Complaint.

AFFIRMATIVE DEFENSES

12. The Policy under which Plaintiff is making his claims is the best evidence of the contract at issue and is pled herein as though copied in its entirety. MetLife specifically pleads all terms, conditions, exclusions, and endorsements, without limitation, and denies any allegations which tend to contradict, contravene or enlarge upon the terms, conditions, exclusions, endorsements, or limitations of the Policy.

13. MetLife breached no duty or obligation arguably owed to Plaintiff under state or federal law.

14. Plaintiff has not satisfied the conditions of coverage under the Policy in order to be eligible for the benefits sought. In particular, and without limitation, Plaintiff did not satisfy the definition of disability set forth in the Policy or demonstrate that he is unable to perform each of the material duties of his own occupation.

15. If Plaintiff is entitled to any recovery in this proceeding (which is denied), Plaintiff is only entitled to recover those amounts which have accrued to the date of trial of this suit and/or in accordance with the limitations contained within the Policy and is not entitled to recover any amounts which may become due in the future.

16. If Plaintiff is entitled to any recovery in this proceeding (which is denied), such recovery is to be offset, under the terms of the Plan, by Other Income Benefits, including without limitation any amounts which Plaintiff has received and continues to receive under the United States Social Security Act, a workers' compensation law, or other employee benefits.

WHEREFORE, MetLife respectfully requests that the Complaint be dismissed with prejudice at Plaintiff's cost, and for such further relief as the Court finds appropriate.

Dated this 29th day of January, 2016.

METROPOLITAN LIFE INSURANCE
COMPANY, Defendant.

By: s/Steven D. Davidson
Steven D. Davidson (#18684)
of: BAIRD HOLM LLP
1500 Woodmen Tower
Omaha, Nebraska 68102
(402) 344-0500
Its Attorneys

CERTIFICATE OF SERVICE

I hereby certify that on January 29, 2016, a true and correct copy of the foregoing was sent by United States mail, first-class postage prepaid, to the following:

Douglas Pauley
CONWAY, PAULEY & JOHNSON, P.C.
P.O. Box 315
Hastings, NE 68902-0315

Ryan Gilbride
Office of the Attorney General
2115 State Capitol
Lincoln, NE 68509

s/Steven D. Davidson

DOCS/1590474.1

Certificate of Service

I hereby certify that on Friday, January 29, 2016 I provided a true and correct copy of the Answer to the following:

State of Nebraska represented by Danielle Jones (Bar Number: 25505) service method:
Electronic Service to Danielle.Jones@nebraska.gov

Metropolitan Life Insurance Company service method: No Service

State of Nebraska represented by Ryan C. Gilbride (Bar Number: 22415) service method:
Electronic Service to ryan.gilbride@nebraska.gov

Armstrong,James, represented by Pauley,Douglas, (Bar Number: 16636) service method:
Electronic Service to dpauley@hastingslaw.com

Signature: /s/ Davidson,Steven,D (Bar Number: 18684)

IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA

JAMES ARMSTRONG,

Plaintiff,

vs.

METROPOLITAN LIFE INSURANCE
COMPANY AND STATE OF NEBRASKA,

Defendants.

MOTION TO DISMISS

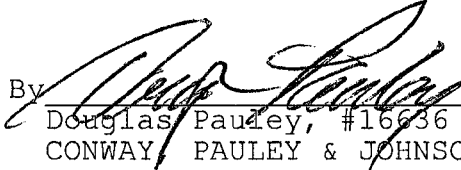
Case No. CI15-4354

COMES NOW the Plaintiff, by and through his attorney,
Douglas Pauley, and hereby moves the Court to dismiss the State
of Nebraska without prejudice, at Plaintiff's costs.

DATED this 10th day of February, 2016.

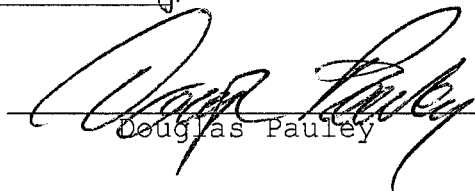
JAMES ARMSTRONG, Plaintiff

By


Douglas Pauley, #16636
CONWAY, PAULEY & JOHNSON, P. C.
P. O. Box 315
Hastings, NE 68902-0315
(402) 462-5187
dpauley@hastingslaw.com
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

The undersigned, Douglas Pauley, does hereby certify that a
true and correct copy of the foregoing Motion to Dismiss was
served on the Defendants by mailing same with postage prepaid, to
Steven D. Davidson, Attorney for Metropolitan Life Insurance
Company, 1500 Woodmen Tower, Omaha, NE 68102; and, Ryan Gilbride,
Attorney for State of Nebraska, 2115 State Capitol, Lincoln, NE
68509, on this 10th day of February, 2016.


Douglas Pauley

Certificate of Service

I hereby certify that on Wednesday, February 10, 2016 I provided a true and correct copy of the Motion-Dismissal to the following:

Metropolitan Life Insurance Company represented by Davidson, Steven, D (Bar Number: 18684) service method: Electronic Service to sdavidson@bairdholm.com

State of Nebraska represented by Danielle Jones (Bar Number: 25505) service method: Electronic Service to Danielle.Jones@nebraska.gov

State of Nebraska represented by Ryan C. Gilbride (Bar Number: 22415) service method: Electronic Service to ryan.gilbride@nebraska.gov

Signature: /s/ Pauley, Douglas, (Bar Number: 16636)

IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA

JAMES ARMSTRONG,

Plaintiff,

vs.

METROPOLITAN LIFE INSURANCE
COMPANY AND STATE OF NEBRASKA,

Defendants.

ORDER TO DISMISS

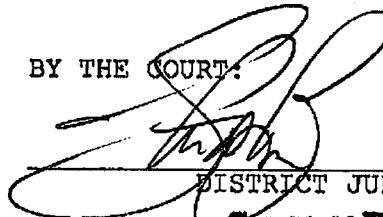
Case No. CI15-4354

NOW ON this 16th day of February, 2016, this matter came on before the Court upon the Motion to Dismiss the State of Nebraska of the Plaintiff.

The Court being fully advised in all the facts finds that Plaintiff's Motion should be granted and that the State of Nebraska is dismissed from the above captioned matter without prejudice, at Plaintiff's costs.

SO ORDERED.

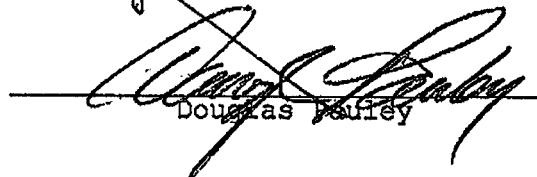
BY THE COURT:


DISTRICT JUDGE
STEVEN D. BURNS

CERTIFICATE OF SERVICE

The undersigned, Douglas Pauley, does hereby certify that a true and correct copy of the foregoing Order to Dismiss was served on the following by mailing same with postage prepaid, to Steven D. Davidson, Attorney for Metropolitan Life Insurance Company, 1500 Woodmen Tower, Omaha, NE 68102; and, Ryan Gilbride, Attorney for State of Nebraska, 2115 State Capitol, Lincoln, NE 68509, on this 16th day of February, 2016.

LANCASTER COUNTY
2016 FEB 16 PM 4 59
CLERK OF THE
DISTRICT COURT


Douglas Pauley



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